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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/649,218

08/26/2003

Larry Kirn

JAM-02902/29

5415

27076

7590

06/20/2008

DORSEY & WHITNEY LLP  
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EXAMINER

CHANG, JOSEPH

ART UNIT

PAPER NUMBER

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* LARRY KIRN

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Appeal 2008-0953  
Application 10/649,218  
Technology Center 2800

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Mailed: June 20, 2008

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Before DALE M. SHAW, *Chief Appeals Administrator*  
SHAW, *Chief Appeals Administrator*.

ORDER REMANDING APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on November 16, 2007. A docketing notice was mailed and Appeal No. 2008-0953 was assigned on December 11, 2007. A review of the application has revealed that the application was not ready for an appeal. Accordingly, the application is herewith being remanded to the Examiner. The matter requiring attention is identified below.

Claims 1-3 of the instant application are set forth as method claims that may not fall with one of the four statutory categories of invention recited in 35 USC § 101. On May 15, 2008 the Deputy Commissioner for Patent Examining Policy, John J. Love, issued a memorandum entitled “Clarification of ‘Processes’ under 35 USC §101.” This memorandum further is used in conjunction with the Interim Guidelines and the Manual of Patent Examining Procedure §2106.IV.B, when determining whether a claimed invention falls within a statutory category of invention. There is a question as to whether claims 1-3 meet the requirements of being patent eligible process under 35 USC §101.

Accordingly, it is

ORDERED that the application is remanded to the Examiner to determine if claims 1-3 meet the requirements of being a patent eligible process under 35 USC §101.

If there are any questions pertaining to this order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

tdl

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